

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7424 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

ASSOCIATED PETROLEUM CORPN.

Versus

INDIAN OIL CORPORATION LTD.

Appearance:

MR ARUN H MEHTA for Petitioners
MR GN SHAH for Respondent No. 1

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 01/12/2000

ORAL JUDGEMENT

The present petition is filed by as many as 10 petitioners, whose case is that they are the proprietors and/ or partnership concerns carrying on business in the name and style mentioned in the cause title of the petition. It is further the case of the petitioners that they are appointed as retail outlet dealers of the respondent for marketing its products. The controversy is in a very narrow compass. It is the case of the

petitioners that under the policy of the respondents, the dealers who are not paying towards draft charges/ cheque collection charges, an amount of Rs.18.00 per KL from the rates of commission on MS and and an amount of Rs.8.00 per KL from the rates of commission on HSD shall be deducted on an uniform basis irrespective of the sale volume.

2. The grievance of the petitioners is that respondent corporation has reimbursed the aforesaid commission of Rs.18.00 per KL to those who have made payment by Bank Draft, but have refused to those who have made payment by Banker's Cheque. It is specifically contended in para 11 of the petition that the petitioners who made payment through Banker's Cheque had also to incur an expenditure to avail that facility from their banker. The difference between the terms, "Demand Draft" and "Banker's Cheque" is set out in para 9 of the petition. When a Bank issues a cheque payable to the drawee, who is situated locally it is called Banker's Cheque and when the drawee is situated outside the city from the Bank which has issued the instrument, it is called Demand Draft. In view of the aforesaid position it is clear that if the petitioners have made payment by the Banker's Cheque and if they are not reimbursed the commission as claimed for and the reimbursement is given only to those who have made payment by Demand Draft, then it is discriminatory.

3. Without entering into any other controversy, this petition is decided on this short point only. If the petitioners have made payment by Banker's Cheque, then they are entitled to the same treatment which is given to the persons who have made payment by Demand Draft.

4. In view of the aforesaid discussion, the present petition is allowed. The respondent corporation is directed to treat the payment made by the petitioners by Banker's Cheque at par with those who have made by Demand Draft. The respondent corporation is also directed to give them similar treatment.

5. Learned advocate for the respondent submitted that a new policy has already come into force since 30.8.1993. The observations made hereinabove are applicable to the period prior thereto.

6. Mr.Mehta, learned advocate for the petitioners submitted that as it is a old matter and pertains to a period which is also very old, it would be in fitness of things, if the Court directs the parties to sit together

and settle the accounts within a time bound frame. The request is reasonable. The parties are directed to sit together and settle their accounts within the period of three months from the date of receipt of writ of this order.

7. The petition is allowed to the aforesaid extent. Rule is made absolute. No order as to costs.

1st December 2000 (Ravi R. Tripathi, J.)

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